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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/606,019	06/25/2003	Vincent Colistro	ZM364/03001	5683
27868	7590	08/26/2004	EXAMINER	
JOHN F. SALAZAR MIDDLETON & REUTLINGER 2500 BROWN & WILLIAMSON TOWER LOUISVILLE, KY 40202			YEAGLEY, DANIEL S	
			ART UNIT	PAPER NUMBER
			3611	

DATE MAILED: 08/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/606,019

**Applicant(s)**

COLISTRO, VINCENT

**Examiner**

Daniel Yeagley

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 25 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 10-16 is/are rejected.
- 7) ☐ Claim(s) 9,17 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 June 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 6/25/03.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: figure 5, numeral “136”. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled “Replacement Sheet” in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

2. The incorporation of essential material in the specification by reference to a foreign application or patent, or to a publication is improper. Applicant is required to amend the disclosure to include the material incorporated by reference. The amendment must be accompanied by an affidavit or declaration executed by the applicant, or a practitioner representing the applicant, stating that the amendatory material consists of the same material incorporated by reference in the referencing application. See *In re Hawkins*, 486 F.2d 569, 179 USPQ 157 (CCPA 1973); *In re Hawkins*, 486 F.2d 579, 179 USPQ 163 (CCPA 1973); and *In re Hawkins*, 486 F.2d 577, 179 USPQ 167 (CCPA 1973).

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 5 and 13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 5 and 13, lines 2, the terms “the pin” lacks proper antecedent basis because it is not clear if applicant is referring to the drawbar pin 22 cited in the independent claim or the pitch pin 42 or 142.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1 – 8 and 10 – 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burrough '892 in view of Gibson '049.

Burrough shows a hitch extension apparatus (figure 1) for attaching an implement (mower 30) to a tractor drawbar 14 having a drawbar hole 20, that includes an extension member (figure 4) and a first member (sleeve 70 having a top and bottom draw pin hole 84) which is adapted to slide over the draw bar and adapted for attachment to the tractor drawbar by insertion of a drawbar pin 85 through the drawbar hole and through at least one corresponding draw pin

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holes 84 defined by the first member to substantially fix the drawbar in a drawbar location 74 and wherein the extension member defines a pivotal attachment location at a rear end thereof which is rearward of the draw pin hole 85 and is adapted for pivotal attachment of the implement about a substantially vertical yaw axis that is located substantially equidistant from a front and rear universal joint, such that a drive line of the implement is connected by the rear universal joint 58 and a drive shaft 40 and adapted for attachment to a tractor power take off 24 by the front universal joint 46 as claimed but lacked the extension member being pivotally attached to the first member about a substantially horizontal pitch axis oriented substantially perpendicular to the operating travel direction, and pivotally attached to the first member about a substantially horizontal roll axis oriented substantially parallel to the operating travel direction.

Gibson shows a hitch extension apparatus (figure 3) for attaching an implement to a tractor drawbar 54 that includes an extension member and a first member (figure 1 and 2A), wherein the extension member comprises a sleeve with a top and bottom draw pin hole 68 slide over the draw bar 54 for attachment to the tractor drawbar by insertion of a drawbar pin 46 through the drawbar hole 68 and through at least one corresponding draw pin holes in the first member which substantially fixes the drawbar in a drawbar location 36 comprising a pitch axis 40, wherein the extension member of Gibson defines a pivotal attachment location at a rear end thereof which is rearward of the draw pin hole 68 and adapted for pivotal attachment of the implement about a substantially vertical yaw axis 12 which further discloses the extension member being pivotally attached to the first member about a substantially horizontal pitch axis oriented substantially perpendicular and pivotally attached to the first member about a substantially horizontal roll axis oriented substantially parallel to the operating travel direction,

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wherein; as broadly claimed, the extension member having a pitch member having a cross-plate 16 located rearward the sleeve and oriented substantially parallel to the pitch axis that passes through the drawbar location, wherein a roll member 50 is pivotally attached to the cross-plate and sleeve about a roll axis (at numeral 34) located at a rear end of the extension member and adapted for pivotal attachment of the implement about a yaw axis (at numeral 32, figure 2A) which is located rearward the pitch axis, such that a pin 30 extends from each side of the sleeve coincident with the pitch axis (figure 2B, column 3 and 5).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the hitch extension member of Burrough with additional pivot axis as suggested by Gibson in order to further reduce the lateral forces between the towing vehicle and the towed implement which are primarily directed on the sides of the drawbar rather than the locking pin by further allowing the implement to orient itself according to the terrain it is traveling over independent of the orientation of the tractor by utilizing a modified extension member which pivots in three planes thereby allowing enough play and flex to prevent the hitch connection from bending or breaking as disclosed by Gibson.

***Allowable Subject Matter***

7. Claims 9 and 17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Austin et al '971 and 283, Walters et al '901, Pruitt et al '570, Harkcom et al '246 and Colistro '612 show various multi-axis hitch connections.

Glover '832 and Myers et al '473 show a hitch having a vertical yaw pivot axis substantially equidistant from the front and rear universal joints of the drive shaft.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel Yeagley whose telephone number is 703-305-0838. The examiner can normally be reached on Mon. - Fri; first Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley D Morris can be reached on 703-308-0629. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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